

REMARKS

The application as amended contains Claims 1-20. Claims 7, 8 and 10 have been withdrawn from consideration. Claims 1, 2, 4, 6 and 9 stand rejected under 35 USC 102. Claims 3 and 5 stand rejected under 35 USC 103. These rejections are respectfully traversed.

Claims 11-20 are newly presented for consideration. Claim 11 depends from independent claim 1. Claims 14-20 are drawn to a change of grade connector. Claims 12-13 are drawn to a method of installing the elected change of grade connector. Should the Examiner feel that Claims 12-13 are drawn to non-elected subject matter, the Examiner is invited to contact the undersigned by telephone.

Rejections under 35 USC 102

Claims 1, 2, 4, 6 and 9 stand rejected under 35 USC 102(b) as being anticipated by Chancellor (US Pat. 3 314 193). This rejection is respectfully traversed.

It is well established that in order for a claim to be anticipated by a reference, each and every element of the claim must be found in the reference. Chancellor discloses a lawn edger consisting of a plurality of identical edging links pivotally connected for forming about a curve. Chancellor does not disclose a change of grade connector having first and second connector members, each of said members having a receiver for operably engaging a landscaping edging strip, as required by amended Claim 1. Therefore, since Chancellor does not disclose each and every element of independent Claim 1, Claim 1 and its depending claims 2, 4, 6 and 9 cannot be anticipated by Chancellor. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

Rejections under 35 USC 103

Claim 3 stands rejected under 35 USC 103 as being unpatentable over Chancellor. For the same reasons cited above addressing the rejection of Claim 1, and for the reason that Claim 3 depends from Claim 1, the rejection of Claim 3 over Chancellor cannot stand. Withdrawal of the rejection of Claim 3, and reconsideration of the claim, is respectfully requested.

Claim 5 stands rejected under 35 USC 103 as being unpatentable over Chancellor in view of Richet et al. (US 2002/0189162 A1). The Examiner has drawn upon Richet et al. to introduce the disclosure of a 90 degree displacement of a connector member to the Chancellor disclosure. As discussed above, however, Chancellor does not disclose each and every element of Claim 1, from which Claim 5 depends. Richet et al. does not disclose the missing element. Therefore, even if the combination were made, it would still not reach the claims.

Conclusion

In light of foregoing amendments and remarks, the claims are believed to be in condition for allowance, and reconsideration of the claims is respectfully solicited. Should the Examiner consider it necessary to expedite prosecution of the application, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,


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